

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 7.6.2019

CORAM

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
AND
THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

O.S.A.Nos.136 & 137 of 2019
and
C.M.P.Nos.11964 & 11966 of 2019

B.Pradeep
Proprietor of Diya Movies,
66/70, Palani Andavar Koil Street,
Vadapalani, Chennai 600 026. ... Appellant

Versus

1. All in Pictures,
3C, 2nd Block, Bajaj Apartments,
5th Cross Street, Nandanam Extension,
Chennai 600 035.
2. Goldmines Telefilms Pvt. Ltd.,
Plot No.45, Ganpati Bhavan,
M.G.Road, Goregaon (West),
Mumbai 400 062. ... Respondents

Prayer: Original Side Appeal filed under Order XXXVI Rule 1 of O.S. rules read with Section 15 of Letters Patent against the order of this court dated 10.5.2019 in A.Nos.2236 & 2237 of 2019 in O.A.Nos.175 & 176 of 2019 in C.S.No.150 of 2019.

Prayer in O.A.No.175 of 2019:-

Original Application praying that this Hon'ble Court be pleased to grant an order of interim injunction restraining the 1st respondent, their men, agents, successors-in-business, assigns, representatives or any person claiming through or under them from alienating, releasing, exhibiting, distributing, assigning, transferring, selling, offering for sale and otherwise using in any manner whatsoever the said "Hindi and all other North Indian languages Dubbing Rights" to any other person, in any manner whatsoever, pending disposal of the Suit.

Prayer in O.A.No.176 of 2019:-

Original Application praying that this Hon'ble Court be pleased to grant an order of interim injunction restraining the

1st respondent, its men, servants, agents, authorized act for and on its behalf from in any manner theatrically releasing and/or broadcasting vide satellite, the cinematograph fil titled "GORILLA" either in Tamil language or Telugu language starring actor Jiva, Shalini Pandey and others, directed by Don Sandy, pending disposal of the Suit.

Prayer in A.No.2236 of 2019:-

Application praying that this Hon'ble Court be pleased to vacate the interim injunction grated in O.A.No.175 of 2019 in C.S.(Comm.) No.150 of 2019 dated 21.02.2019.

Prayer in A.No.2237 of 2019:-

Application praying that this Hon'ble Court be pleased to vacate the interim injunction grated in O.A.No.176 of 2019 in C.S.(Comm.) No.150 of 2019 dated 21.02.2019.

For appellant : Mr.Arun C.Mohan

For R1 : Mr.S.Karthikei Balan

For R2 : Mr.S.R.Raghunathan

COMMON JUDGMENT

(Judgment of the court was made by Dr.VINEET KOTHARI, J.)

The present Appeals are directed against the interlocutory order passed by the learned Single Judge on 10th May 2019 in A.Nos.2236 & 2237 of 2019 in O.A.Nos.175 & 176 of 2019 in C.S.No.150 of 2019, by Mr.B.Pradeep, Proprietor of Diya Movies, Chennai, as against the first Defendant-All in Pictures, Chennai, the producer of the Movie and the second Defendant-Goldmines Telefilms Private Limited, Mumbai.

2. The learned Single Judge passed the interlocutory order in question before us with the following directions:-

"16. Accordingly, A.Nos.2236 and 2237 of 2019 filed for vacating the interim orders are ordered and the Interim Orders dated 21.02.2019, which subsequently stood modified on 26.03.2019 in O.A.Nos.175 and 176 of 2019 are hereby vacate, with the following conditions:

i) The Defendant No.2 is directed to deposit a sum of Rs.30,00,000/- (Rupees Thirty Lakhs only) to the credit of C.S.(Comm) No.150 of 2019 before the Registrar General of this Court within a period of one month from the date of receipt of a copy of this order, failing which, the modified

interim orders dated 26.03.2019 will automatically come into force and be restored immediately on the expiry of the specified time;

ii) On deposit of Rs.30,00,000/- (Rupees Thirty Lakhs only), the Registrar General shall invest the said sum in the Indian Bank, Madras High Court Branch, Madras under Fixed Deposit scheme initially for a period of one year and thereafter renewable periodically till the disposal of the suit;

iii) As undertaken by the Defendant No.2, the Hindi version of Telugu Film shall be released after 60 days from the date of release of Telugu Movie.

17. It is made clear that any observation made hereinabove, touching upon the merits of the matter, is only for the purpose of disposal of these Applications and it will not prejudice the rights of the parties to raise all the points that are available at the time of advancement of their arguments in the main suit, by producing both oral and documentary evidence.

18. The plaintiff is permitted to serve suit summons on the Counsel for the Defendants immediately, if not served earlier and on and from the date of the receipt of suit summons, Written Statements have to be filed by the Defendants within the stipulated time in terms of the provisions of the Code of Civil Procedure, 1908 as amended by The Commercial Courts Act, 2015.

Registry is directed to list the main suit in the First Week of June, 2019 for hearing."

3. The learned counsel for the Appellant/Plaintiff Mr.Arun C.Mohan submitted that the Assignment of Hindi Dubbing rights of the film 'Gorilla' (Tamil) produced by the first Defendant-All in Pictures was made to the Plaintiff/Appellant under the Assignment Agreement dated 20.1.2018, however, the second Defendant-M/s.Goldmines Telefilms Private Limited was also given the Hindi Dubbing Rights by Defendant No.1 with respect to Telugu version of the said film 'Gorilla' under a separate Assignment Agreement dated 16.11.2018. He submitted that the Telugu version of the said movie is substantially similar to that of the Tamil version of the said movie 'Gorilla' and therefore, the Assignment of Hindi version of Telugu movie is likely to adversely affect and seriously prejudice the rights of the plaintiff. He further submitted that on the Undertaking

given by the second Defendant, the learned Single Judge has recorded in the impugned order that the Hindi version of the Telugu film shall be released only after 60 days from the date of release of Telugu Version. The impugned order was passed by the learned Single Judge in the Summer Vacations on 10.5.2019 in view of the urgency shown by the parties that the Tamil version of the said movie is likely to be released on 16.5.2019 itself.

4. During the course of hearing the present Appeals, at the admission stage, the court asked a question to the learned counsel for the first Defendant-Producer, Mr.S.Karthikei Balan, who submitted that the Telugu Version of the said movie is not even ready as of now and therefore, is not likely to be released in the near future.

5. The learned counsel for the second Defendant, Mr.S.R.Raghunathan, however, emphatically opposed the submissions of the learned counsel for the Plaintiff/Appellant and submitted that even the present Appeals are not maintainable as the Appellant/Plaintiff has no right over the Cinematography film and therefore, claiming copyrights on that basis is not even available to the Plaintiff/Appellant and the Appellant has got only Hindi dubbing rights of the Tamil version of the film and the two Versions of the Film are different.

6. Having heard the learned counsel for the parties, we are inclined to dispose of the present Appeals with the following additional direction in addition to the directions already given by the learned Single Judge on 10.5.2019 in the interlocutory order which is impugned before us.

7. In the facts and circumstances, we direct that the Telugu version of the said film "Gorilla" shall not be released by the first Defendant without obtaining specific leave of the learned Single Judge in the Civil Suit. The other directions given in the order dated 10.5.2019 shall stand. With this modification of the order dated 10.5.2019 indicated above, the present Appeals are disposed of. No costs. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1.The Sub Assistant Registrar,
Original Side, High Court, Madras.

Copy To:

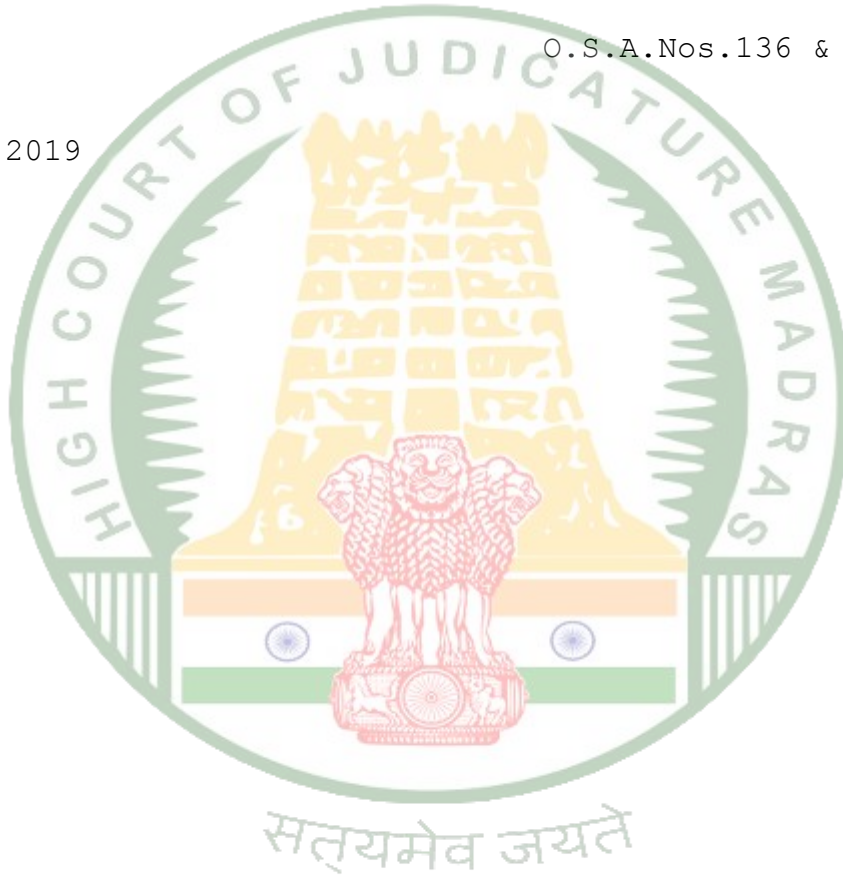
The Registrar (General),
High Court, Madras.

+1 cc to M/s.Arun C.Mohan, Advocate, Sr.No. 45711

+2 cc's to M/s.S.R.Raghunathan, Advocate, Sr.No. 45773,45774

O.S.A.Nos.136 & 137 of 2019

CNR(CO)
CSL/26.06.2019



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